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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,419	09/23/2003	Yuval Berenstein	2960/1	1092

7590 05/02/2006

DR. MARK FRIEDMAN LTD.

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Discovery Dispatch

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EXAMINER

FLETCHER III, WILLIAM P

ART UNIT

PAPER NUMBER

1762

DATE MAILED: 05/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/667,419

Applicant(s)

BERENSTAIN ET AL.

Examiner

William P. Fletcher III

Art Unit

1762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 13-25 and 29-53 is/are pending in the application.
- 4a) Of the above claim(s) 35-53 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 13-25 and 29-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The amendment and response of 02/21/2006 is noted.
2. Claims 1-9, 13-25, and 29-53 remain pending. Claims 35-53 remain withdrawn from consideration.

Response to Arguments

3. Applicant's arguments, see the response, filed 02/21/2006, with respect to the rejection(s) of claim(s) set-forth in the prior Office action, have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of the references already of record for the reasons set-forth below.

Priority

4. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Israel on 02/13/2003. It is noted, however, that applicant has not filed a certified copy of the IL 154452 application as required by 35 U.S.C. 119(b).

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

Art Unit: 1762

the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1, 2, 4, 6-9, 13-15, 17-19, 21, 23-31, 33 and 34 rejected under 35 U.S.C. 103(a) as being unpatentable over WO 02/060702 A2 in view of Jellinek et al. (US 4,810,751 A).

A. The teaching of these references is detailed in the prior Office action.

B. Applicant has amended the independent claims to recite applying the finishing agent to less than 100% of the surface of the non-woven. It is the examiner's position that, because the WO reference teaches the production of decorative laminates, this would have suggested application of the dyes and pigments in any suitable and aesthetically desirable fashion and doing so would have been obvious to one of ordinary skill in the art. There is no evidence of record that the binder applicator taught by the WO document requires 100% coverage.

C. Applicant has further amended the independent claims to require application by rotary screen printing. As noted in the prior Office actions, Jellinek suggests such application and doings so would have been obvious in view of this reference. Jellinek's references to impregnation are in conditional language such as "some" and "may." This does not detract from the teaching clearly set-forth at 4:27-51. Applicant is reminded that patents are part of the literature of the art and are relevant for all they contain.¹ A reference may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art, including non-preferred embodiments.²

¹ *In re Heck*, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983)

² *Merck & Co. v. Biocraft Laboratories*, 874 F.2d 804, 10 USPQ2d 1483 (Fed. Cir.), cert. denied, 493 U.S. 975 (1989)

Art Unit: 1762

8. **Claims 3, 5, 20, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO '702 and Jellinek, as applied to claims 1 and 19, respectively, above, and further in view of Wang et al. (US 5,935,880 A).**

A. The teaching of Wang is detailed in the prior Office action.

B. As noted in the prior Office action, it would have been obvious to form the non-woven in the fashions claimed based on the teaching of Wang.

9. **Claims 16 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO '702 and Jellinek, as applied to claims 1 and 19, respectively, above, and further in view of GB 2 292 082.**

A. The teaching of the GB reference is detailed in the prior Office action.

B. As noted in the prior Office action, it would have been obvious to include scent motivated by the desire and expectation of successfully yielding a desirably scented product.

Conclusion

10. The prompt development of clear issues in the prosecution history requires that applicant's reply to this Office action be fully responsive (MPEP § 714.02). When filing an amendment, applicant should specifically point out the support for any amendment made to the disclosure, including new or amended claims (MPEP §§ 714.02 & 2163). A fully responsive reply to this Office action, if it includes new or amended claims, must therefore include an explicit citation (i.e., page number and line number) of that/those portion(s) of the original disclosure which applicant contends support(s) the new or amended limitation(s).


Art Unit: 1762

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Fletcher III whose telephone number is (571) 272-1419. The examiner can normally be reached on Tuesday through Saturday, 0700h to 1730h.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy H. Meeks can be reached on (571) 272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


TIMOTHY MECKS
SUPERVISORY PATENT EXAMINER

Art Unit: 1762

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WPF

William Phillip Fletcher III
Patent Examiner (PSA), USPTO
Art Unit 1762

Alexandria, VA
April 26, 2006